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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,089	09/30/2003	James L. Christofferson	1-24751	4760

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,089

Applicant(s)

CHRISTOFFERSON ET AL.

Examiner

FREDRICK C CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 13, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,168,590 to O'Sullivan.

Claim 14, O'Sullivan discloses a method for carrying the pressure-distributing medium in a personal mobility vehicle cushion, the method comprising the steps of:

- a) providing a cushion cover having a pocket 16,
- b) inserting a pressure-distributing medium 26 in the pocket, and
- c) inserting a base 200 in the cover so that the pressure-distributing medium is positioned above the base.

Claim 15 further comprising the step of fastening the cover closed (col. 3 lines 66-68).

Claim 18, further comprising the step of providing a pocket opening that further faces forward of the cover.

Claims 14 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No 6,151,733 to Takashima.

Claim 14, Takashima discloses a method for carrying the pressure-distributing medium in a personal mobility vehicle cushion, the method comprising the steps of:

- a) providing a cushion cover 3 having a pocket 32,

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b) inserting a pressure-distributing medium 1 in the pocket, and

c) inserting a base 2 in the cover so that the pressure-distributing medium is positioned above the base.

Claim 16, further comprising the step of providing the pocket within the cover.

Claim 17, further comprising the step of providing a pocket opening that faces interiorly of the cover.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,592,707 to Dinsmoor et al. in view of U.S. Pat. No. 5,168,590 to O'Sullivan.

Claim 1, Dinsmoor discloses a seat cushion comprising:

a base 4,

a pressure-distributing medium 5 supported by the base; and

a cover 3 covering the base and the pressure-distributing medium. Dinsmoor

fails to disclose the cover comprising a pocket for receiving the pressure-distributing

medium. O'Sullivan discloses a cover for a cushion having a pocket 16. It would have

been obvious to one having ordinary skill in the art at the time of the invention to employ

a pocket as taught by O'Sullivan with the cover of Dinsmoor in order to easily insert and remove the pressure-distributing medium.

Claim 2, wherein the pressure distributing medium is a fluid pad.

Claim 3, wherein the base includes a posterior seat well for receiving bony prominences of a wheelchair occupant (01. 3 lines 45-48)(Dinsmoor).

Claim 4, wherein the pocket is positioned at a rear of the cover substantially over the seat well.

Claim 6, wherein the pocket includes an opening 13 at a front end thereof.

Claim 7 wherein the pocket is closed along a rear and lateral sides of the cover (col. 3 lines 62-63).

Claim 8, further including at least one fastener in the pocket for securing the pressure-distributing medium therein (col. 3 lines 66-68)(O'Sullivan).

Claim 9, wherein the at least one fastener is in the form of a hook-and-loop type fastener (col. 3 lines 66-68)(O'Sullivan).

Claim 10, further comprising top and bottom fabric panels joined together with an opening provided there between that is selectively opened and closed via one or more fasteners (col. 3 lines 66-68)(O'Sullivan).

Claim 11, wherein the one or more fasteners is a slideable fastener (col. 3 lines 66-68)(O'Sullivan).

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Pat. No. 5,592,707 to Dinsmoor et al. in view of U.S. Pat. No. 6,151,733 to Takashima.

Claim 1, Dinsmoor discloses a seat cushion comprising:

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a base 4*,

a pressure-distributing medium 5 supported by the base; and

a cover 3 covering the base and the pressure-distributing medium. Dinsmoor

fails to disclose the cover comprising a pocket for receiving the pressure-distributing

medium. Takashima discloses a cover for a cushion having a pocket 32. It would have

been obvious to one having ordinary skill in the art at the time of the invention to employ

a pocket as taught by Takashima with the cover of Dinsmoor in order to store the

pressure-distributing medium.

Claim 2, wherein the pressure distributing medium is a fluid pad.

Claim 3, wherein the base includes a posterior seat well for receiving bony

prominences of a wheelchair occupant (*1. 3 lines 45-48)(Dinsmoor).

Claim 4, wherein the pocket is positioned at a rear of the cover substantially over

the seat well.

Claim 5, wherein the pocket is provided within the cover.

Allowable Subject Matter

Claims 12-13 and 19-20 are allowed.

Response to Arguments

Applicant's arguments filed 11/08/04 have been fully considered but they are not persuasive.

Contrary to the Applicant's argument, the hot/cold packs 26 of O'Sullivan and the stuffing materials of Takashima would inherently distribute pressure along it's area since it is a fundamental static principle that any weight applied to or comes into contact with a support is distributed throughout the entire support thereby distributing the pressure through the support medium. Thus, the hot/cold packs of O'Sullivan or the stuffing materials of Takashima are not required to explicitly state that they are pressure distributing medium since they inherently function to distribute pressure once a weight is applied to a supporting surface of the hot/cold packs and stuffing materials.

With regards to claims 8-11 and 15, O'Sullivan clearly recites an open end 13 of the cover may be fastened/closed via conventional fasteners, such as Velcro, snaps, zipper, buttons, ect. Therefor, the Applicant's limitations such as "the step of fastening the cover closed" and "at least one fastener in a pocket for securing" is clearly met by O'Sullivan.

With regards to claims 6 and 18, the Applicant fails to establish clear limitations to the directional orientations in the claim thus O'Sullivan clearly meets the limitations "a pocket opening that faces forward of the cover" or "an opening at the front end thereof" since the open end 13 of a pockets of O'Sullivan faces the forward end portion/area of the cover which is parallel to the longitudinal axis.

In response to applicant's argument that Dinsmoor and O'Sullivan is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Dinsmoor and O'Sullivan disclose cushions for providing therapeutic support characteristics. Dinsmoor discloses a cushion having a fluid pack attached thereto. O'Sullivan discloses a cushion having a pack attached thereto through a pocket. The combination of references would provided a cushion having removable fluid packs secured and attached to the cushion through a plurality of pockets with a fastening means.

With regards to claim 4, the combination of references would again teach the Applicant's limitations "a pocket positioned at a rear of the cover substantially over a seat well". Dinsmoor clearly discloses the fluid pack substantially over a seat well and O'Sullivan illustrates a plurality of pockets at the front and rear end of the cover. Thus, the combination of Dinsmoor and O'Sullivan would provide a cushion having at least one pocket at a rear end of the cover and substantially over a seat well.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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